



Paper No. 11

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OFFICE OF PETITIONS

In re Application of
Turek, Saferstein, & Schaibly
Application No. 09/892,205
Filed: June 26, 2001
Attorney Docket No. 2437/103
For: METHOD AND APPARATUS FOR
ESTABLISHING A CUSTOMIZED
ELECTRONIC SITE

DECISION DISMISSING
PETITION

This is a decision on the petition under 37 CFR 1.182, filed September 3, 2002 by nonsigning inventor Turek, requesting that "all further correspondence regarding application 09892205 be required to include my signature in my own capacity."

On August 2, 2002, the Office granted Rule 47 status to the above-identified application. Inventor Turek was mailed a letter informing him of this fact and the options available to him as a nonsigning inventor.

Petitioner filed a declaration with the instant petition. The format of the declaration is one used in conjunction with an application data sheet. Unfortunately, the above-identified application was not filed with an application data sheet. As a result, the declaration filed on September 3, 2002 does not meet the requirements of 37 CFR 1.63. Petitioner has not joined in the filing of the application. Nevertheless, the Office will retain it in the file of the above-identified application.

Regarding petitioner's request to play a role in the prosecution of the above-identified application, petitioner's attention is directed to the Manual of Patent Examining Procedure (MPEP) 409.03(I). This section addresses the rights of the nonsigning inventor. It states, in pertinent part, "A nonsigning inventor is not...entitled to prosecute the application if status under 37 CFR 1.47 has been accorded... Even if the nonsigning inventor joins in the application, he or she cannot revoke or give a power of attorney without agreement of the 37 CFR 1.47 applicant."

The signing inventors appointed attorneys in their declaration, filed January 7, 2002. This power of attorney was effective when Rule 47 status was accorded to the above-identified application. 37 CFR 1.33 states that when an attorney has been appointed, the Office will not engage in dual correspondence with the attorney and an inventor. A copy of this decision will be mailed to petitioner. All future correspondence will be mailed to the correspondence address of record.

Petitioner states that he filed the petition in order to ensure that his interests are properly and effectively represented. It is the Office's position that the rights of a nonsigning inventor are protected by the fact that in an application filed under 37 CFR 1.47(a) and 35 USC 116, the nonsigning inventor has the same rights that he would have if d he had joined in the application. *In re Hough*, 108 USPQ 89 (Comm'r Pat. 1955).

As stated in the August 2, 2002 letter to petitioner, petitioner is entitled to inspect any paper in the file wrapper of the application, order copies of all or any part of the application file, and make his position of record in the application. In addition, if petitioner feels that he is the sole inventor of the invention, he may file his own application and request that his application be placed in interference with the above-identified application. If the claims in both petitioner's and the above-identified application are otherwise found allowable, an interference may be declared. While petitioner may do all these things, petitioner, as a nonsigning inventor, may not prosecute the above-identified application.

Accordingly, the petition under 37 CFR 1.182 is **DISMISSED**.

The Application is being returned to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



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